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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA**

## In re:

**LAVERNE ERNEST TOEDTLI and  
IRENE DORIS TOEDTLI, husband  
and wife,** Debtors

Case Number: 12-47526-PBS

**LAVERNE ERNEST TOEDTLI and  
IRENE DORIS TOEDTLI, husband and  
wife.**

Adversary Proceeding Number:

Plaintiffs,  
vs.

**VFC PARTNERS 1, LLC, a Delaware limited liability company,**

**COMPLAINT TO VOID LIEN OF  
VFC PARTNERS 1, LLC ON  
DEBTORS' RESIDENCE**

(10202 N.E. 113th Circle)

COME NOW the Debtors, Laverne Ernest Toedtli and Irene Doris Toedtli, husband and wife, and allege and state:

1. This is a core proceeding over which this court has jurisdiction pursuant to 28 U.S.C. §§157(a), (b)(1), (b)(2)(A), (b)(2)(B), (b)(2)(E) and (b)(2)(O), and pur-

**COMPLAINT TO VOID LIEN — 1**

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1 suant to 28 U.S.C. §1334.

2 2. This court has venue of this proceeding pursuant to 28 U.S.C. §1391(d) and 28

3 U.S.C. §§1407(a), (b) and (d).

4 3. Plaintiffs are husband and wife.

5 4. Plaintiffs reside in Clark County, Washington.

6 5. Plaintiffs are debtors in a voluntary chapter 11 case commenced in this court on

7 November 2, 2012 under case number 12-47526-PBS.

8 6. Plaintiffs' chapter 11 plan was confirmed by this court on March 17, 2014.

9 7. Plaintiffs are the reorganized debtors under the confirmed chapter 11 plan.

10 8. Plaintiffs are the holders of all rights of the Debtors, the Debtor In Possessions

11 and the Debtors' estate.

12 9. Plaintiffs are the owners of a parcel of residential real property commonly known

13 as 10202 N.E. 113th Circle in Vancouver, Clark County, Washington, which is

14 more particularly described as:

15 "Lot 21, WESTMINSTER WALK PHASE 2, According to the plat

16 thereof, recorded in Volume J of plats, page 464, records of Clark

17 County, Washington."

18 10. Defendant holds a claim listed in Plaintiff's petition for relief in the original

19 amount of \$979,697.51 pursuant to a judgement entered June 15, 2012 in the

20 Clark County, Washington Superior Court, judgment number 12-9-03691-7.

21 11. Plaintiffs' were guarantors of a promissory note granted by Todd's Auto Body,

22 Inc. as promisor in favor of Bank of Clark County, on which Defendant's Judg-

23 ment was based.

24 12. Defendant's judgement

25 a. Foreclosed Defendant's lien that attached to the 10202 N.E. 113th Circle

**COMPLAINT TO VOID LIEN — 2**

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1 property pursuant to a deed of trust dated June 27, 2006 in favor of Bank  
2 of Clark County, recorded June 29, 2006 under Auditors file number  
3 4188149, records of Clark County, Washington, and

4 b. Foreclosed Defendant's lien that attached to a parcel of undeveloped real  
5 property commonly known as 15704 N.E. Fourth Plain Boulevard in Van-  
6 couver, Clark County, Washington, pursuant to a deed of trust dated June  
7 27, 2006 in favor of Bank of Clark County, recorded June 29, 2006 under  
8 Auditors file number 4188145, records of Clark County, Washington.

9 13. Defendant's judgment imposes judicial liens on the 10202 N.E. 113th Circle  
10 property and the 15704 N.E. Fourth Plain Boulevard properties.

11 14. The deeds of trust recorded under Clark County Auditors File numbers 4188149  
12 and 4188145 merged into and were extinguished by Defendant's judgement.

13 15. The deed of trust recorded under Clark County Auditors file number 4188149 is a  
14 lien on the 10202 N.E. 113th Circle property if and to the extent the deed of trust  
15 has not merged into Defendant's judgement.

16 16. Defendant has collected at least \$124,447.95 on its judgment from garnishments  
17 of Todd's Auto Body, Inc.

18 17. Defendant has collected \$9,900.92 on its judgment from a real estate contract it  
19 received pursuant to the Debtors' chapter 11 plan.

20 **First Claim For Relief**

21 18. The Debtors' confirmed chapter 11 plan establishes a value of \$1,270,000.00 on  
22 the 15704 N.E. Fourth Plain Boulevard property.

23 19. Defendant's State court foreclosure of the 15704 N.E. Fourth Plain Boulevard  
24 property was stayed by the Debtors' chapter 11 plan.

25 20. The chapter 11 plan terminated the stay of Defendant's foreclosure of the 15704

**COMPLAINT TO VOID LIEN — 3**

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1 N.E. Fourth Plain Boulevard property on November 1, 2016.

2 21. Defendant elected to proceed with its State law remedies to realize on the 15704

3 N.E. Fourth Plain Boulevard property.

4 22. Defendant obtained an order terminating the stay imposed by the chapter 11 plan

5 of Defendant's foreclosure of the 15704 N.E. Fourth Plain Boulevard property.

6 23. Defendant's foreclosure of the 15704 N.E. Fourth Plain Boulevard property and

7 the deed of trust on which it was based are junior in rank to a deed of trust dated

8 August 18, 2005 in favor of Bank of Clark County, recorded August 22, 2005 un-

9 der Auditors File number 4037727, records of Clark County, Washington.

10 24. The allowed claim on the deed of trust recorded under Clark County Auditors File

11 number 4037727 was \$165,381.81 as of the petition date.

12 25. Defendant has received at least \$1,104,618.19 from its election to realize on the

13 15704 N.E. Fourth Plain Boulevard property.

14 26. Defendant's allowed claim has been paid in full by the value it receives from the

15 15704 N.E. Fourth Plain Boulevard property.

16 27. The deed of trust is a cloud on Plaintiff's title to the 10202 N.E. 113th Circle

17 property.

18 **Second Claim For Relief**

19 28. The Debtors' confirmed chapter 11 plan establishes a value of \$700,000.00 on the

20 10202 N.E. 113th Circle property.

21 29. Defendant's lien against the 10202 N.E. 113th Circle property and the deed of

22 trust on which the judgment was based are junior in rank to a deed of trust dated

23 January 12, 2004 in favor of IndyMac Bank, F.S.B., with a current balance of

24 \$177,428.38.

25 30. The Debtors claimed a homestead exemption in the 10202 N.E. 113th Circle

1 property on their chapter 11 petition for relief.

2 31. No party in interest objected to the Debtors' declared exemptions.

3 32. The Debtors have a valid homestead exemption of \$125,000.00 in the 10202 N.E.

4 113th Circle property under the Washington state homestead exemption laws.

5 33. Defendant's judgment impairs the Debtors' exemption in the 10202 N.E. 113th

6 Circle property.

7 **Third Claim For Relief**

8 34. The documents and instruments upon which Defendant's claim is based provides

9 for the award of attorney fees and costs.

10 35. Plaintiff's are entitled to reimbursement from Defendant for their attorney fees

11 and costs in bringing this proceeding.

12 **WHEREFORE**, Plaintiffs pray that this court enter a judgment against the Defendant:

13 1. Voiding all right, title and interest Defendant and all persons claiming any right or

14 interest through it may have or claim in and to 10202 N.E. 113th Circle, Vancouver,

15 Washington arising under, related to or in connection with a judgement en-

16 tered June 15, 2012 in the Clark County, Washington Superior Court, judgment

17 number 12-9-03691-7,

18 2. Voiding all right, title and interest Defendant and all persons claiming any right or

19 interest through it may have or claim in and to 10202 N.E. 113th Circle, Vancouver,

20 Washington arising under, related to or in connection with the deed of trust

21 recorded under Clark County, Washington Auditor's File number 418849,

22 3. Extinguishing the deed of trust dated June 27, 2006 in favor of Bank of Clark

23 County, recorded June 29, 2006 under Auditors file number 4188149, records of

24 Clark County, Washington, attaching to the real property commonly known as

25 **COMPLAINT TO VOID LIEN — 5**

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1 10202 N.E. 113th Circle, Vancouver, Washington and which is more particularly  
2 described as:

3 "Lot 21, WESTMINSTER WALK PHASE 2, According to the plat  
4 thereof, recorded in Volume J of plats, page 464, records of Clark  
5 County, Washington."

6 4. For Plaintiffs' attorney fees and costs incurred herein in an amount to be deter-  
7 mined by the court, and  
8 5. For such other and further relief as the court determines equitable.

9  
10 Dated: January 10, 2016

/s/ J. D. Nellor

11 John D. Nellor, WSBA #9101  
12 J. D. Nellor, PC | Nellor Law Office  
13 Attorney for the Plaintiffs

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**COMPLAINT TO VOID LIEN — 6**

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